

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PREMIER HARVEST LLC, a Washington
Limited Liability Company; PREMIER
HARVEST LLC, a Alaska Limited Liability
Company; PREMIER HARVEST ADAK LLC,
an Alaska Limited Liability Company,

Plaintiffs,

v.

AXIS SURPLUS INSURANCE COMPANY, a
Foreign Corporation; CUNNINGHAM
LINDSEY U.S., INC., a Foreign Corporation,

Defendants.

No.: 17-cv-00784-JCC

**DECLARATION OF CRAIG H.
BENNION IN SUPPORT AXIS
SURPLUS INSURANCE
COMPANY'S MOTION FOR
SANCTIONS FOR SPOILATION OF
EVIDENCE**

**NOTE ON MOTION CALENDAR:
FRIDAY, SEPTEMBER 14, 2018**

1. I am over the age of eighteen and am competent to testify to the facts and matters contained herein, which are based upon my personal knowledge.

2. I am an attorney at Cozen O'Connor, representing Defendant AXIS Surplus Insurance Company in this matter.

3. On December 7, 2017, AXIS served requests for production of documents on the plaintiffs. A true and correct copy of these discovery requests is attached as Exhibit A.

4. Plaintiffs served answers and objections on January 29, 2018. Plaintiffs thereafter provided copies of their 2012-2015 federal tax returns, but told AXIS that they

DEC. OF CRAIG H. BENNION IN SUPPORT AXIS SURPLUS
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1 regarded all other financial documents irrelevant, including all financial records from after the
2 weather events.

3 5. On February 16, 2018, I sent a letter to Plaintiffs' counsel explaining the
4 deficiencies in their production. Attached as Exhibit B is a true and correct copy of that letter.

5 6. On February 23, 2018, counsel held a "meet and confer" discovery
6 conference. At that meeting, counsel for Plaintiffs asserted that post-storm data was irrelevant,
7 but assured that nonetheless, the QuickBooks records would be produced. However, on
8 February 28, Plaintiffs' counsel advised that the records stored electronically by QuickBooks
9 had been deleted because Premier Harvest failed to pay several outstanding invoices and
10 QuickBooks closed the account.

11 7. Attached as Exhibit C is a true and correct copy of an August 1, 2016 letter
12 from Amy O'Rourke to Dustin L. Anderson acknowledging receipt of claim.
13 [ASIC_CLM0002264-2268].

14 8. Attached as Exhibit D is a true and correct copy of excerpts of the July 19, 2018
15 deposition transcript of Robert McMillen. [McMillen 37:19-39:6; 97:8-98:11].

16 9. Attached as Exhibit E is a true and correct copy of excerpts of the August 20,
17 2018 rough draft of Lisa Anderson's deposition transcript. The final transcript is not yet
18 available. [Lisa Dep. 7:18-9:2.]

19 10. Attached as Exhibit F is a true and correct copy of a February 28, 2018 email
20 from Ian Birk responding to my email of February 26, 2018.

21 11. Attached as Exhibit G is a true and correct copy of excerpts of the John G. Price
22 Deposition transcript. [Price dep. 12:5-13:1; 30:10-31:7; 31:19-32:20; 42:5-43:4; 77:9-80:2].

23 12. Attached as Exhibit H is a true and correct copy of a September 29, 2016 email
24 exchange between John Price and Ellie Garcia of Premier Harvest. [Price dep. Ex. 16]

25 13. Attached as Exhibit I is a true and correct copy of a October 20, 2016 email
26 from Elizabeth Garcia of Premier Harvest to John Price. [Price dep. Ex. 18].

1 I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is
2 true and correct.

3 DATED AND SIGNED this 30th day of August, 2018, at Seattle, Washington.
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6 /s/ Craig H. Bennion
Craig H. Bennion
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DEC. OF CRAIG H. BENNION IN SUPPORT AXIS SURPLUS
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I electronically filed the foregoing document with the
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to the
4 persons listed below:

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20 **BETTS, PATTERSON & MINES, P.S.**
Attorneys for Defendant Cunningham Lindsey U.S. Inc.

21 ATED AND SIGNED this 30th day of August, 2018.

22 COZEN O'CONNOR

23
24 By: /s/ Craig H. Bennion
25 Craig H. Bennion, WSBA No. 11646
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